MINUTES OF MISSISSIPPI TORT CLAIMS BOARD THURSDAY, MARCH 10, 2016

The Mississippi Tort Claims Board (Board) meeting was held at 1:30 p.m. in Room 138, Woolfolk State Office Building; 501 North West Street; Jackson, Mississippi.

The following members were present, constituting a quorum:

P. Ryan Beckett, Chairman

Haire, Mark; Deputy Commissioner of Insurance, Representing Insurance Commissioner Mike Chaney

Jackson, Laura; Deputy State Treasurer, Representing Treasurer Lynn Fitch Upchurch, Kevin; Executive Director, MS Department of Finance and Administration

Also present were:

Donaldson, Bruce; Tort Claims Board
Kelly, Trina; Tort Claims Board
Logan, Jim; Tort Claims Board
McElroy, Lea Ann; Tort Claims Board
Milner, Steve; Tort Claims Board
Preziosi, Misti; Office of the State Treasurer
Smith, Daniel; Attorney General's Office
Wells, Lisa; Canon Cochran Management Services, Inc.
Wells, Teresa; Tort Claims Board
Wilson, Jeff; Trinity Capital Investors
Woodcock, J. D. "Woody"; Attorney General's Office
Younger, Jim; Department of Public Safety

The Chairman called the meeting to order.

Motion was made by Mrs. Jackson to approve the minutes of the January 14, 2016, meeting. Mr. Upchurch seconded the motion, which passed unanimously.

There was no Old Business.

In New Business, Mrs. McElroy provided members a summary of the current legislation that could impact the Tort Claims Board or Act. The Chairman asked that she continue to keep members up to date as the Session progresses.

Mr. Logan presented the financial report for fiscal year 2016 through February 29, 2016. The Cash Flow Analysis details assessment revenue of just over \$4 million (total assessment was \$4.4 million) and total expenditures of \$6.8 million. Mr. Logan advised that we have total funds

of \$14.3 million, including \$7.6 million in reserves and \$6.7 million in unencumbered funds. We have paid claim losses totaling \$2.7 million to-date, and legal expenses of \$554,884. The average claim paid is just over \$5,500 and the average reserve is just over \$11,000. The Budget Comparison Report details 45% of allotted budget expended.

Mr. Wilson presented the investment report through February 2016. The portfolio currently has just over \$13,062,000 invested with a market value of just over \$13,053,000 (up substantially from 2015 year-end). The internal rate of return is 1.36% (tracking at 2% for the fiscal year), the current book yield is 1.8%, and the market yield of the portfolio is just under 1.5%. The portfolio has earned just under \$110,000 for fiscal year 2016 (tracking just under \$200,000 for the fiscal year).

Mr. Milner provided his report of loss control services, noting the ride-alongs with State Troopers and his Dixie National Rodeo site visits.

Mrs. McElroy presented one (1) attorney for inclusion in the approved Attorney Register: Robert P. Thompson of Copeland, Cook, Taylor & Bush, P.A. in Ridgeland. Mr. Thompson does meet the eligibility requirements of the Board and staff recommends approval. Mrs. Jackson moved to approve and Mr. Upchurch seconded. The motion passed unanimously.

Mrs. McElroy presented a list of 27 political subdivisions with the recommendation that all be approved for renewal of Certificates of Coverage. Mrs. Jackson made a motion to approve the list and Mr. Upchurch seconded the motion, which passed by unanimous vote.

There was no Claims Report.

Mrs. Jackson made a motion for the Board to enter Closed Determination Session to determine if there is sufficient subject matter with which to enter Executive Session. Mr. Haire seconded the motion, which passed. Mrs. Jackson then made a motion to set the agenda to discuss litigation strategies relative to agenda item IX. Mr. Haire seconded the motion, which passed. Mrs. Jackson then made a motion that based on the agenda, the Board does have sufficient cause to enter Executive Session. That motion was seconded by Mr. Haire and passed. Lastly, the Chairman announced the agenda and Mrs. Jackson made a motion for the Board to enter Executive Session, which was seconded by Mr. Haire and passed unanimously. Mr. Woodcock made a report to the Board. Mrs. Jackson then made a motion to exit Executive Session. Mr. Haire seconded the motion, and the motion passed with a unanimous vote.

Mr. Woodcock introduced Dan Smith to the Board. Mr. Smith will take over as our legal counsel following Mr. Woodcock's retirement June 30, 2016.

There being no further business to come before the Board, the meeting was adjourned.

P. RYAN BECKETT, CHAIRMAN

MIKE CHANEY, BOARD MEMBER
LYNN FITCH, BOARD MEMBER
JIM HOOD, BOARD MEMBER
Jany Man GARY RIKARD, BOARD MEMBER
ALBERT SANTA CRUZ, BOARD MEMBER

KEVIN J. UPCHURCH, BOARD MEMBER

Mississippi Tort Claims Board Thursday, March 10, 2016 – 1:30 P.M.

AGENDA

I.	Approval of Minutes
	A. January 14, 2016

- II. Old Business
- III. New Business
 A. Legislative Update
- IV. Financial Reports
 A. Financial Report Jim Logan
 B. Investment Report Jeff Wilson
- V. Loss Control Steve Milner
- VI. Attorney General's Report Lea Ann McElroy
- VII. Certificates of Coverage Lea Ann McElroy
- VIII. Claims Report Bruce Donaldson
- IX. Continued Discussion of Litigation Strategies
- X. Adjournment

MINUTES OF MISSISSIPPI TORT CLAIMS BOARD THURSDAY, JANUARY 14, 2016

The Mississippi Tort Claims Board (Board) meeting was held at 1:30 p.m. in Room 138, Woolfolk State Office Building; 501 North West Street; Jackson, Mississippi.

The following members were present, constituting a quorum:

P. Ryan Beckett, Chairman

Jackson, Laura; Deputy State Treasurer, Representing Treasurer Lynn Fitch Kelsey, Christina; Representing Insurance Commissioner Mike Chaney, MS Insurance Department

Upchurch, Kevin; Executive Director, MS Department of Finance and Administration Whitley, Onetta; Deputy Attorney General, Representing Attorney General Jim Hood

Also present were:

Donaldson, Bruce; Tort Claims Board
Hopson, Senator Briggs; Senate
Kelly, Trina; Tort Claims Board
Logan, Jim; Tort Claims Board
McElroy, Lea Ann; Tort Claims Board
Younger, Jim; Department of Public Safety
Wilson, Jeff; Trinity Capital Investors
Woodcock, J. D. "Woody"; Attorney General's Office

The Chairman called the meeting to order.

Motion was made by Mr. Upchurch to approve the minutes of the November 12, 2015, meeting. Mrs. Kelsey seconded the motion, which passed unanimously.

There was no Old Business.

In New Business, Mrs. McElroy presented a staff recommendation to increase the bodily injury settlement authority for CCMSI from \$5,000 to \$10,000, bringing it level to their current property damage authority. The Board does retain the right to change the levels based on staffing and performance. A motion was made by Mr. Upchurch to approve the recommendation, which was seconded by Mrs. Whitley and passed unanimously.

Mr. Logan presented the financial report for fiscal year 2016 through December 31, 2015. The Cash Flow Analysis details assessment revenue of \$3.5 million (approximately 80% of the total assessment), total revenue of \$5 million, and total expenditures of \$3.8 million. Mr. Logan advised that we have total funds of \$15.2 million, including \$9.1 million in reserves and \$6.1

million in unencumbered funds. We have paid claim losses totaling \$1.5 million to-date, legal expenses of \$348,681 and other expenses of \$13,171. The average claim paid is just under \$4,000 and the average reserve is just over \$13,000. The Budget Comparison Report details 25% of allotted budget expended, with 50% or less spent in each category through the first allotment period.

Mr. Wilson presented the investment report through December 2015. The portfolio currently has just over \$13 million invested with a market value of just under \$12.9 million. The internal rate of return is just over 2%, the current book yield is 1.6%, and the market yield of the portfolio is just over 2%. The portfolio has earned just under \$200,000 for calendar year 2015. In the Performance Report, we see the internal rate of return at 2.06% and the total return for 2015 at 2.38%. Comparing our earnings to the index, we are down about 80 basis points for the internal rate of return, and up about 80 basis points for the total return. Looking at the portfolio composition, at the end of the year we were over-invested in Treasuries because we had to get back within guidelines for mortgage-backed securities. Lastly, we are moving away from managing this portfolio like a traditional tort portfolio, move away from having a large amount of money due in the first 12months, and push that out 2-4 years.

In Mr. Milner's absence, the Board received his report for information purposes.

Mrs. McElroy presented two (2) attorneys for inclusion in the approved Attorney Register: Ashley Nobile Lane of Gore, Kilpatrick & Dambrino, PLLC in Grenada and Courtney Leyes Tomlinson of Fisher & Phillips, LLP in Gulfport. Both meet the eligibility requirements of the Board and staff recommends approval. Mrs. Whitley moved to approve and Mrs. Jackson seconded. The motion passed unanimously.

Mrs. McElroy presented a list of 27 political subdivisions with the recommendation that all be approved for renewal of Certificates of Coverage. Mr. Upchurch made a motion to approve the list and Mrs. Jackson seconded the motion, which passed by unanimous vote.

Mrs. Whitley made a motion for the Board to enter Closed Determination Session to determine if there is sufficient subject matter with which to enter Executive Session. Mr. Upchurch seconded the motion, which passed. Mr. Upchurch then made a motion to set the agenda to discuss litigation strategies relative to agenda items VIII and IX. Mrs. Kelsey seconded the motion, which passed. Mrs. Whitley then made a motion that based on the agenda, the Board does have sufficient cause to enter Executive Session. That motion was seconded by Mr. Upchurch and passed. Lastly, the Chairman announced the agenda and Mr. Upchurch made a motion for the Board to enter Executive Session, which was seconded by Mrs. Jackson and passed unanimously. Mr. Sumrall and Mr. Woodcock made reports to the Board. Mr. Upchurch then made a motion to exit Executive Session. Mrs. Kelsey seconded the motion, and the motion passed with a unanimous vote.

Mr. Woodcock announced his retirement effective June 30, 2016.

There being no further business to come before the Board, the meeting was adjourned.

P. RYAN BECKETT, CHAIRMAN
MIKE CHANEY, BOARD MEMBER
Lynn FITCH, BOARD MEMBER, Deputy
JIM HOOD, BOARD MEMBER
GARY RIKARD, BOARD MEMBER
ALBERT SANTA CRUZ, BOARD MEMBER
KEVIN J. UPCHURCH, BOARD MEMBER

Tort Claims Act Legislation Summary 2016 Legislative Session

Bill No.	Introduced By	Action	MTCA Reference	Description	Notes
НВ578	Gipson	Referred to Jud B (2/8) Passed Committee (2/11) Amendment Failed (2/16) Passed House (2/16) Transmitted to Senate (2/17) Referred to Jud A (2/29)	11-46-9	Adds exemption z to provide immunity to officials who take reasonable action in response to a report of suspicious activity believed to be related to terrorism	"Mississippi See Something, Say Something Act of 2016"
НВ1119	Snowden	Referred to Military Affairs (2/8) Passed Committee (2/23) Passed House (2/29)	11-46-1 11-46-9	Brings our sections forward "for the purpose of possible amendment"	
		Transmitted to Senate (3/1) Referred to Veterans & Military Affairs (3/7)		"The Adjutant General, Mississippi Military Department, the Mississippi National Guard and any designated civilian guard employeeshall have discretion in the performance of their duties and shall be immune from liability"	
SB2362	Clarke	Referred to Appropriations (2/8) Passed Committee (2/18) Amended (3/2) Passed Senate as Amended (3/2) Transmitted to House (3/4) Referred to Appropriations (3/8)	11-46-17	Abolishes all Special Funds and all charges, fees, assessments to other agencies; from and after July 1, 2016 we will be funded by a legislative appropriation from the State General Fund and will no longer assess agencies	"Budget Transparency and Simplification Act of 2016"

as of 03/09/2016 8:48am

Combined Financial Report - Fiscal Year 2016 Fund 3080

----CASH FLOW ANALYSIS-----

70 10 to 10	JASH	FLOW ANALYS	15-			
REVENUE:		January		February	`	Year-To-Date
Assessments Received		572,314.17		31,622.54		4,059,544.68
Interest		24.70		1,297.93		8,172.22
Investment Interest		16,560.46		4,664.42		150,407.08
Sale of Scrap		0.00		150.00		662.00
Transfer In Funds		1,150,000.00		250,000.00		2,900,000.00
Total Revenue	\$	1,738,899.33	\$	287,734.89	\$	7,118,785.98
EXPENSES:						
Claim Losses - TCB and TPA		1,085,715.72		100,559.28		2,748,867.72
Legal Expenses - TCB and TPA		127,366.16		78,836.29		554,883.56
Other Expenses - TCB and TPA		1,141.90		218.23		14,531.06
Administrative Expenses Paid		128,651.19		63,901.69		605,306.72
Transfer of Funds - Out		1,150,000.00		250,000.00		2,900,000.00
Total Expenses	\$	2,492,874.97	\$	493,515.49	\$	6,823,589.06
FUNDS ON HAND:						
Beginning Balance	\$	15,261,564.87	\$	14,507,589.23		
Revenue		1,738,899.33		287,734.89		
Expenses		(2,492,874.97)		(493,515.49)		
Adjustments		0.00		0.00		
Total Funds	\$	14,507,589.23	\$	14,301,808.63		
Cash in Treasury	\$	1,535,334.20	\$	1,174,589.49		
Investment in Treasury	\$	12,783,301.00	\$	12,783,301.00		
TPA Trustmark Bank Balance		188,954.03		343,918.14		
Total Funds By Account	_\$_	14,507,589.23	\$	14,301,808.63		
Less Reserves	\$	8,057,727.00	\$	7,594,918.35		
Unencumbered Funds Available	\$	6,449,862.23	\$			
CLAIMS/R	ESER	VES DETAIL (Y	ear	-To-Date)		
		Tort Board		Mgt. Services		TOTAL
Claims - Payments	\$	55,853.89	\$	2,693,013.83	\$	2,748,867.72
Claims - Legal Expenses		552,251.06		2,632.50		554,883.56
Claims - Other Expenses		_		14,531.06		14,531.06
Total Paid Out to Date	\$	608,104.95	\$	2,710,177.39	\$	3,318,282.34
OUTSTANDING RESERVES		662,360.50		6,932,557.85		7,594,918.35
Total Claims & Reserves	\$	1,270,465.45	\$	9,642,735.24		10,913,200.69
Number of Claims Created		371		365		736
Number of Claims Paid		144		354		498
Total Open Claims		222		466		688

NOTE: Information represents combined operations for Treasury Fund 3080 and the Trustmark account (utilized by CCMSI).

\$387.87

\$2,983.61

AVG. CLAIM \$ / # CLAIMS PAID

AVG. RESERVE / OPEN CLAIMS

\$

\$

\$7,607.38

\$14,876.73

5,519.81

11,039.13

Budget Comparison Report Treasury Fund 3080 Fiscal Year 2016

Expenses:	Total Budget	January 2016	February 2016	Year To Date Expenditures	Ending Balance	Percent Expended
A1-Salaries	\$ 555,000.00	\$ 46,026.91	\$ 46,026.67	\$ 369,505.42	\$ 185,494.58	66.58%
A2-Travel	8,000.00	0.00	0.00	1,777.82	6,222.18	22.22%
B-Contractual	4,727,706.00	209,848.90	96,347.83	784,105.34	3,943,600.66	16.59%
C-Commodities	8,300.00	131.24	353.13	1,921.90	6,378.10	23.16%
D2-Capital Outlay	3,500.00	0.00	0.00	0.00	3,500.00	0.00%
E-Subsidies	3,819,924.00	1,155,198.80	255,717.61	2,955,853.89	864,070.11	77.38%
SUBTOTAL TPA Expended	\$ 9,122,430.00	\$ 1,411,205.85 1,081,669.12	\$ 398,445.24 95,070.25	\$ 4,113,164.37 2,710,424.69	\$5,009,265.63	<u>45.09</u> %
TOTAL Expended		\$ 2,492,874.97	\$ 493,515.49	\$ 6,823,589.06		



March 3, 2016

Ms. Lea Ann McElroy Mississippi Tort Claims Board P O Box 267 Jackson, MS 39205-0267

Re: February 2016 Portfolio Highlights

Total Portfolio	Book Value	\$13,062,154
	Market Value	\$13,053,301
Fiscal 2016 Internal Rate of Return		1.36%
Current Portfolio Book Yield		1.81%
Market Yield		1.47%
Weighted Average Life		Approximately 2.5 years
2016 Fiscal YTD Earnings		108,844
Accrued Interest		55,303

Security Inventory Booking Report February 2016

MISSISSIPPI TORT CLAIMS FUND

Security Group	Туре	Par <u>Value</u>	Book Value/ Cost
AGEN	FNMA FHLB FFCB	1,875,000 3,300,000 2,075,000	1,883,655.00 3,291,050.00 2,087,926.25
СМО	GNMA GN FLOATER FHR FNR	3,084,098 474,564 73,286 1,437,247	2,169,024.19 151,740.94 62,193.51 1,369,769.36
	PEFCO	500,000	518,605.00
	US TREAS	1,500,000	1,499,843.76
INTEREST			4,664.42
CASH			28,346.12

13,062,154.13

Transfer:



P. RYAN BECKETT, CHAIRMAN

MIKE CHANEY, Commissioner Insurance Department LYNN FITCH, Treasurer Department of Treasury JIM HOOD, Attorney General Office of Attorney General GARY RIKARD, Executive Director
Department of Environmental Quality
ALBERT SANTA CRUZ, Commissioner
Department of Public Safety
KEVIN J. UPCHURCH, Executive Director
Department of Finance and Administration

MEMORANDUM

TO:

Mississippi Tort Claims Board

FROM:

Steve Milner

DATE:

March 10, 2016

RE:

Loss Control Report

Since the last Board Meeting, loss control services for the Tort Claims Board include:

- 5 Ride a Longs
- 16 State Property Inspections
- 2 Emergency Responses
- 4 Defensive Driving Classes
- 1 Safety Planning Meeting
- 5 Dixie National Site Visits
- 2 Accident Investigations



P. RYAN BECKETT, CHAIRMAN

MIKE CHANEY, Commissioner Insurance Department LYNN FITCH, Treasurer Department of Treasury JIM HOOD, Attorney General Office of Attorney General GARY RIKARD, Executive Director
Department of Environmental Quality
ALBERT SANTA CRUZ, Commissioner
Department of Public Safety
KEVIN J. UPCHURCH, Executive Director
Department of Finance and Administration

MEMORANDUM

TO: Mississippi Tort Claims Board

FROM: Lea Ann McElroy **DATE:** March 10, 2016

RE: Additions to Defense Attorney List

RECOMMENDATION: Staff recommends approval of (1) attorney for

inclusion on Defense Attorney List

Honorable Robert P. Thompson

Copeland, Cook, Taylor & Bush, P.A.

Post Office Box 6020 Ridgeland, Mississippi

Robert P. Thompson bthompson@cctb.com

February 4, 2016

Lea Ann McElroy, Administrator Mississippi Tort Claims Board P.O. Box 267 Jackson, MS 39205-0267

Re: Tort Claims Approved Attorney Register

Dear Ms. McElroy:

This letter is written to request that I be added to the Tort Claims Approved Attorney Register. I have enclosed a copy of my resume' and a Letter of Good standing from the Mississippi Bar Association.

I look forward to hearing from you.

Sincerely,

COPELAND, COOK, TAYLOR & BUSH, P.A.

Pallot Thrupus

Robert P. Thompson

RPT/rrf Enclosures

JACKSON | RIDGELAND 600 Concourse, Suite 100 1076 Highland Colony Parkway Ridgeland, Mississippi 39157

P.O. Box 6020 Ridgeland, MS 39158

ROBERT P. THOMPSON Ridgeland, Mississippi 601-856-7200

Email: <u>bthompson@cctb.com</u>

Mr. Thompson is a shareholder with Copeland, Cook, Taylor & Bush, P.A. law firm in Ridgeland, Mississippi. Mr. Thompson received his B.S. degree from Mississippi State University in 1978, and his J.D. Degree from the University of Mississippi School of Law in 1981.

Mr. Thompson started his law practice in 1981 with the Gerald Brand law firm in Jackson, Mississippi. At Gerald Brand, Mr. Thompson primarily worked on oil and gas matters concentrating on oil and gas title opinions, division orders, and litigation. Beginning around 1985, Mr. Thompson began trying lawsuits. In 1989, Mr. Thompson moved to Copeland, Cook Taylor & Bush where his practice is primarily trial work.

Mr. Thompson is an elected advocate of the American Board of Trial Advocates. He has tried over 100 administrative agency hearings and non jury trials and over 100 jury trials. Mr. Thompson has served as an adjunct professor of Trial Practice. He has tried cases in construction, insurance, bad faith, banking, workers' compensation, personal injury, as well as other areas. He is admitted to practice before all Mississippi State Courts, Mississippi Federal District Courts and the United States Fifth Circuit Court of Appeals. He is also a member of the Mississippi Bar Association, American Bar Association, Defense Research Institute, and Mississippi Defense Lawyers Association.

Mr. Thompson has been a frequent speaker at many continuing legal education courses.

Mr. Thompson is an AV rated lawyer, which is the highest rating by his peers for Legal Ability and Ethical Standards.



Post Office Box 2168 Jackson, Mississippi 39225-2168 Telephone (601) 948-4471 Fax (601) 355-8635 E-Mail info@msbar.org Website www.msbar.org

Letter of Good Standing

TO WHOM IT MAY CONCERN:

As of the date below, the attorney named is a member in good standing of The Mississippi Bar on **Active** status.

Robert P. Thompson, Mississippi Bar Identification Number (8188) was admitted to practice law, **April 14, 1981.**

Amy S. Ward

Membership Coordinator

Date 02/03/2016





P. RYAN BECKETT, CHAIRMAN

MIKE CHANEY, Commissioner Insurance Department LYNN FITCH, Treasurer Department of Treasury JIM HOOD, Attorney General Office of Attorney General GARY RIKARD, Executive Director Department of Environmental Quality ALBERT SANTA CRUZ, Commissioner Department of Public Safety KEVIN J. UPCHURCH, Executive Director Department of Finance and Administration

MEMORANDUM

TO: Mississippi Tort Claims Board

FROM: Lea Ann McElroy **DATE:** March 10, 2016

RE: Political Subdivisions – Certificates of Coverage

RECOMMENDATION: Staff recommends approval of 27 political

subdivisions shown on attached list.

Thursday, March 10, 2016

Political Subdivisions Recommended for Renewal of Certificate of Coverage

Alcorn County Fire Services

Town of Boyle

City of Clarksdale

City of Fulton

George County School District

City of Indianola

Itawamba Community College

Jones County Board of Supervisors

LSR Volunteer Fire Department, Inc.

Mars Hill Volunteer Fire Department

Mid-Mississippi Development District

Mississippi Corn Promotion Board

Oak Vale Volunteer Fire Department, Inc.

Oktibbeha County Regional Medical Center

Pass Christian Public School District

Region XIII Commission for Mental Health

Sharkey County Board of Supervisors

Sharkey County Soil & Water Conservation District

Sharkey-Issaquena County Library

South Central Regional Medical Center

South Madison County Fire Protection

Town of Taylorsville

Tunica County Board of Supervisors

City of Waynesboro

West Covington Volunteer Fire Dept. Inc.

West Madison Utility District

Wilkinson County Board of Supervisors

Total 27